

## Bad Blood: A Look at Taylor Swift and Artists' Rights

*In the summer of 2019, Scooter Braun acquired Taylor Swift's former record label. Swift responded with a proposition: She could re-record her old music and release new versions. "Call it What you Want To," but the feud between Swift and Braun has seemingly re-kindled an industry-wide debate over masters' ownership, re-recording provisions, and artists' rights in general.*

Barely a quarter-mile from Vanderbilt University sat Big Machine Label Group LLC, an independent Nashville-based music company, home to artists like Sheryl Crow and Rascal Flatts.<sup>1</sup> In June of 2019, however, the label was acquired by Ithaca Holdings LLC, Scooter Braun's closely held corporation.<sup>2</sup> Braun already possessed Schoolboy Records label, a music publishing company, and had management clients such as Justin Bieber, Ariana Grande, and Kanye West.<sup>3</sup> In acquiring Big Machine, Braun also gained control of Taylor Swift's first six albums.<sup>4</sup> Swift strongly opposed the deal. Unfortunately, she had received "incessant, manipulative bullying...at his [Braun's] hands for years."<sup>5</sup> Swift, however, had an idea of how to combat this: she could re-record her old music.<sup>6</sup> Not only did her proposition draw massive attention on social media, but the dispute also highlighted legal issues with master recordings.

Traditionally, artists sign away ownership of their master recordings in exchange for an upfront payment and royalties from future sales.<sup>7</sup> The owner of a master recording has the right to sell songs and albums and license the recordings to movies, television shows, and video games.<sup>8</sup> Separate rights for the composition, however, are usually split among the songwriters.<sup>9</sup> Because Swift is a lead writer for all of her songs, she could essentially permit herself to record "cover versions" of her songs without having access to the master recordings.<sup>10</sup>

Record label contracts typically include re-recording restrictions, which prevent artists from creating new versions of songs produced under the agreement for a defined period. Swift has revealed that her re-recording restriction will expire in November 2020 and that she plans to re-record her first six albums once that restriction runs out.<sup>11</sup> While we anxiously await for Swift's re-recordings, it is important to consider what this type of stance could mean for the music industry.

Taylor Swift is not the first artist to struggle over owning their work. For example, Prince rebelled against Warner Brothers in the mid-1990s and even threatened to re-record his entire

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<sup>1</sup> <https://www.wsj.com/articles/scooter-braun-makes-300-million-deal-for-big-machine-records-11561893008>.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> <https://www.nytimes.com/2019/07/03/arts/music/popcast-taylor-swift-scooter-braun.html?action=click&module=RelatedLinks&pgtype=Article>.

<sup>5</sup> <https://taylorswift.tumblr.com/post/185958366550/for-years-i-asked-pleaded-for-a-chance-to-own-my>.

<sup>6</sup> <https://www.nytimes.com/2019/08/22/arts/music/taylor-swift-rerecord-albums.html?searchResultPosition=7>.

<sup>7</sup> <https://www.wsj.com/articles/taylor-swifts-dispute-with-former-label-is-latest-tussle-over-master-recordings-11562021783>.

<sup>8</sup> <https://www.nytimes.com/2019/08/22/arts/music/taylor-swift-rerecord-albums.html?searchResultPosition=7>.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> <https://www.bestlawyers.com/article/taylor-swift-recording-contract-controversy/2747>.

catalogue.<sup>12</sup> However, Swift's message about the importance of ownership may be able to gain more traction than previous artists because of developments in the music industry.<sup>13</sup> Traditionally, much of the power record labels' had related to their ability to market albums and promote songs to radio stations.<sup>14</sup> Currently, however, most listeners use streaming services over the radio.<sup>15</sup> This change may lead to increased bargaining power for artists. For example, rapper XXXTentacion signed a series of one-off contracts that offered lower payment upfront but gave him full ownership of his work and a higher royalty rate than traditional, long-term record deals.<sup>16</sup> Other artists have decided to forgo record labels altogether and market and distribute their music independently through social media and streaming platforms at a much lower cost.

On the other hand, record labels still offer enormous value to artists. In speaking about Swift's deal with Big Machine, producer David Geffen said, "She didn't want to put up \$300 million. Someone else did."<sup>17</sup> Thus, it seems highly unlikely record labels will go extinct because of their financing and marketing capacities. They may, however, have to account for a slight shift in bargaining power. For example, because of the awareness stars like Swift have brought to the issue of masters' ownership, more artists may be reluctant to enter into a deal where they cannot own their masters, or at least be able to buy it back. If a record-label is unwilling to give artists their masters, they may decide to market themselves independently through social media and streaming services. Additionally, artists who have already signed away their rights to their masters may follow in Swift's footsteps and decide to re-record. Thus, it seems that the traditional amount of control that record labels have maintained over artists may go out of "Style" soon.

--Sara Norton

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<sup>12</sup> <https://www.nytimes.com/2019/08/22/arts/music/taylor-swift-rerecord-albums.html?searchResultPosition=7>.

<sup>13</sup> *See id.*

<sup>14</sup> <https://www.nytimes.com/2019/07/01/arts/music/taylor-swift-master-recordings.html?searchResultPosition=2>.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*